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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,756	01/09/2002	Christopher D. Farnes	100110217	7287

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EXAMINER	
CHOI, PETER H	
ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/043,756	<b>Applicant(s)</b> FARNES ET AL.	
	<b>Examiner</b> Peter Choi	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. The following is a first office action upon examination of application number 10/043756. Claims 1-20 are pending in the application and have been examined on the merits discussed below.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Under the statutory requirement of 35 U.S.C. § 101, a claimed invention must produce a useful, concrete, and tangible result. For a claim to be useful, it must yield a result that is specific, substantial, and credible (MPEP § 2107). A concrete result is one that is substantially repeatable, i.e., it produces substantially the same result over and over again (*In re Swartz*, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000)). In order to be tangible, a claimed invention must set forth a practical application that generates a real-world result, i.e., the claim must be more than a mere abstraction (*Benson*, 409 U.S. at 71-72, 175 USPQ at 676-77).

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding a concrete result, the claimed invention does not yield a result that is substantially repeatable. The practice of the claimed invention is solely dependent on subjectivity of a human user, which varies from person. The outcome of the practice of the claimed invention is not substantially repeatable as different goals (and different associated success metrics for accomplishing each department goal) for different organizations are determined. The claimed invention is completely dependent on factors (different goals, different success metrics, different "measurable actions" to accomplish said goals, different organizations, different business objective of said organizations, etc.) that could yield a significantly altered result every time the invention is repeated.

Regarding a tangible result, the claimed invention does not set forth a practical application that generates a real-world result. For example, determining an organizational goal and success metrics associated with said goal, and taking measurable action to accomplish said goal per se is abstract because there is no real-world application of the success metrics. Without any express clarification of who or what is performing the steps, the claimed invention is deemed to be non-statutory for failing to produce a tangible result, as these steps could be limited to the mind of a human user. Until such steps are used to manifest some effect in the real-world, they constitute a mere abstract idea. However, if the measurable actions of the organization

were somehow converted into quantitative results, which are then mathematically manipulated to measure organizational progress towards accomplishing their goal, then the claimed invention yield a real-world, i.e., tangible, result.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Casper Lassenius, Maarit Nissinen, Kristian Rautiainen and Reijo's "The Interactive Goal Panel: A Methodology for Aligning R&D Activities With Corporate Strategy", published in October 1998 (hereinafter referred to as Lassenius et al., reference 1-U).

As per claim 1, Lassenius et al. teaches a method for implementing a total customer experience action planning process to provide an improved customer experience, said method comprising:

(a) gathering data associated with an organization and customers of said organization (**The objects, goals, and performance measures already in use in the organization are identified and analyzed**) [Paragraph 41];

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(b) during a strategy session associated with said organization (**strategic control aspects are presented to the rest of the organization and analyzed in workshops**), determining a goal for said organization along with an associated success metric for accomplishing said goal, wherein said goal is based on said data (**for each object, the goals and mechanisms to achieve those goals are formulated; the objects, mechanisms and goals for the dimensions of the Balanced Score Card are defined by interviewing representatives at different levels in the company**) [Paragraphs 42, 43, 44];

(c) determining a department goal along with an associated success metric for accomplishing said department goal (**for each object, the goals and mechanisms to achieve those goals are formulated; the objects, mechanisms and goals for the dimensions of the Balanced Score Card are defined by interviewing representatives at different levels in the company**), wherein said department goal is closely associated with a business objective of said organization (**the goals are often related to process improvement or the installation of new processes**) [Paragraph 33, 42, 43]; and

(d) taking measurable action to accomplish said department goal (**a control plan is formulated, documenting all aspects and levels of the framework. It also includes practical issues normally found in measurement plans, such as the definition of data to collect, the identification of persons responsible for the metrics, and information on visualization and distribution of the metrics data**) [Paragraph 47].

As per claim 2, Lassenius et al. teaches the method as described in claim 1 further comprising:

(e) during a commitment session associated with said organization, providing an overview of said total customer experience action planning process to a manager of said organization and to staff associated with said manager. **(strategic control aspects are presented to the rest of the organization and analyzed in workshops. The objective of the workshops is to harmonize and gain consensus on the goals to strive for and the control mechanisms to use)** [Paragraph 44].

As per claim 5, Lassenius et al. teaches the method as described in claim 1 further comprising:

(e) repeating said (a) through (d) at some future time **(iteration of the implementation process is often needed; the Interactive Goal Panel should be periodically updated)** [Paragraphs 48,50].

As per claim 3, Lassenius et al. does not explicitly teach the method as described in claim 1 wherein said data further comprises data provided by a partner organization that works together with said organization.

Official Notice is taken that the step of collecting data from partner organizations is old and well known in the art. It would have been obvious to one of ordinary skill in

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the art at the time of invention to modify the teachings of Lassenius et al. to include the step of gathering data from partner organizations because the resulting combination would broaden the amount of available data for analysis, and also to assess the compatibility of partner organizations with newly determined goals.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Lassenius et al. as applied to claim 1 above, and further in view of Gary Meyer's discussion of eWorkbench in "eWorkbench: Real-time tracking of synchronized goals", published in the April 2001 issue of HRMagazine (hereinafter referred to as Meyer, reference 1-X).

As per claim 4, although not explicitly taught by Lassenius et al., Meyer teaches the method as described in claim 1 wherein said data further comprises data provided by managers associated with said organization (**Managers can execute periodic ratings of progress on a competency; Managers can run a "Goals Snapshot"**



**report for summary information on their work units or selected individuals; eWorkbench's "Performance Trends" option generates a report showing where an employee stands with every goal and competency item) [Paragraphs 7,9, 10].**

Both Lassenius et al., and Meyer are directed towards monitoring success for accomplishing department goals; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Lassenius et al. to include the step of including data provided by managers of an organization, because the resulting combination would broaden the amount of available data for analysis, and also to assess the progress/competency of organizational/department employees with newly determined goals.

As per claim 6, although not explicitly taught by Lassenius et al., Meyer teaches the method as described in claim 1 wherein said (c) further comprises:

(c1) verifying said department goal and said associated success metric for accomplishing said department goal within an up-line manager of said organization **(eWorkbench lets managers and line employees create and track goals, and align them with their employer's broad objectives. The program allows individuals' goals to be linked with those of their bosses, all the way to the top; Managers also can create and automatically cascade goals down to their direct reports)** [Paragraphs 2, 4].

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Both Lassenius et al., and Meyer are directed towards monitoring success for accomplishing department goals; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Lassenius et al. to include the step of verifying department goals and associated success metrics with up-line management, because the resulting combination would enable to ensure that management and line employees along the hierarchical chain of command within the organization are in alignment with respect to objectives, goals, and means of measuring the successfulness of said goals and objectives.

Claims 7-20 recite limitations already addressed by the rejection of claims 1-6 above; therefore, the same rejection applies.

The IGP (Interactive Goal Panel) concept discussed by Lassenius et al. is also supported with modern information technology that would greatly enhance its usability. Uses for IT include aiding with the definition of the controllability parameters, helping with data collection, and analyzing as well as visualizing the data. Lassenius et al. have developed a visualization tool based on Java-technology that supports on-line visualization of the IGP and metrics over an intra-or internet. The computer on which the IGP visualization tools operate inherently includes a processor, a memory device, and an addressable data bus coupled to said processor.

The eWorkbench software discussed by Meyer is a computer readable medium having computer readable code embodied therein. The computer on which the eWorkbench software operates inherently includes a processor, a memory device, and an addressable data bus coupled to said processor.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hezerman (U.S Patent #6,901,372) teaches a quality operating system. Projects are organized into five phases, including a concept proposal phase, a concept feasibility

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phase, a manufacturing concept ready phase, a manufacturing implementation ready phase, and a replication phase.

Victor Basili, Gianluigi, and H. Dieter Rombach's "The Goal Question Metric Approach", published in 1994.

A. Oinas's "Defining Goal-driven Fault Management Metrics in a Real World Environment: A Case-Study from Nokia", published in February 2000.

Lynn Summers and Diane Cox's "The Manager's Role in Setting Goals: I. Preparing for the Goal Setting Discussion"

Lynn Summers and Elizabeth Hampson's "Setting and Attaining Goals: How to ACT BEST".

Lynn Summers and Diane Cox's " "I'll Know It When I See It" – How to Set Evaluation Criteria for Goals".

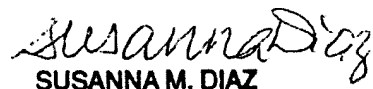
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peter Choi  
Examiner  
Art Unit 3623

May 26, 2006

  
SUSANNA M. DIAZ  
PRIMARY EXAMINER  
